

**Federal Energy Regulatory Commission**

**Pt. 35, Subpt. H, App. B**

**PART I—PIVOTAL SUPPLIER ANALYSIS—Continued**

Row	Generation	MW	Reference
G .....	Long-Term Firm Sales .....	– 2,500	Workpaper.
H .....	Imported Power .....	3,500	Workpaper.
I .....	Balancing Authority Area Reserve Requirement .....	– 2,160	Workpaper.
J .....	Amount of Line I Attributable to Seller, if any .....	– 2,160	Workpaper.
K .....	Total Uncommitted Supply (SUM A,B,C,D,E,F,G,H,I,M) .....	9,840	
<b>Load</b>			
L .....	Balancing Authority Area Annual Peak Load .....	18,000	Workpaper.
M .....	Average Daily Peak Native Load in Peak Month .....	– 16,500	Workpaper.
N .....	Amount of Line M Attributable to Seller, if any .....	– 16,500	Workpaper.
O .....	Wholesale Load (SUM L,M) .....	1,500	
P .....	Net Uncommitted Supply (K–O) .....	8,340	
Q .....	Seller's Uncommitted Capacity (SUM A,B,C,D,J,N) .....	340	
	Result of Pivotal Supplier Screen (Pass if Line Q < Line P), (Fail if Line Q > Line P) .....		PASS.

[Order 697, 72 FR 40038, July 20, 2007, as amended by Order 697–A, 73 FR 25913, May 7, 2008]

**APPENDIX B TO SUBPART H OF PART 35**

This is an example of the required appendix listing the filing entity and all its energy affiliates and their associated assets which should be submitted with all market-based rate filings.

**MARKET-BASED RATE AUTHORITY AND GENERATION ASSETS**

Filing entity and its energy affiliates	Docket No. where MBR authority was granted	Generation name	Owned by	Controlled by	Date control transferred	Location		In-service date	Nameplate and/or seasonal rating
						Balancing authority area	Geo-graphic region (per Appendix D)		
ABC Corp..	ER05–23X–000	ABC falls plant #1.	ABC Corp.	ABC Corp.	NA* .....	ABC balancing authority area.	Central	8/12/1981 ..	153.5 MW (seasonal).
xyz Inc. ...	ER94–79XX–000	NA .....	NA .....	NA .....	NA .....	NA .....	NA .....	NA .....	NA.
RST LLC	ER01–2XX5–000	Green CoGen.	WWW Corp.	RST LLC.	5/23/2005	New York ISO.	North-east.	12/20/2003	2000 MW (nameplate).
Sample Co..	ER03–XX45–000	Sample Co. 3.	Sample Co.	YYY Corp.	2/1/1982 ..	Sample Co. balancing authority.	South-west.	5/13/1973 ..	10 MW (seasonal).

\*If an entity has no assets or the field is not applicable please indicate so by inputting (NA).

**ELECTRIC TRANSMISSION ASSETS AND/OR NATURAL GAS INTRASTATE PIPELINES AND/OR GAS STORAGE FACILITIES**

Filing entity and its energy affiliates	Asset name and use	Owned by	Controlled by	Date control transferred	Location		Size
					Balancing authority area	Geo-graphic region (per Appendix D)	
ABC Corp	CBA Line, used to interconnect Green Cogen to New York ISO transmission system.	ABC Corp	ABC Corp	NA* .....	New York ISO .....	Northeast	approximately five-mile, 500 kV line.

ELECTRIC TRANSMISSION ASSETS AND/OR NATURAL GAS INTRASTATE PIPELINES AND/OR GAS  
STORAGE FACILITIES—Continued

Filing entity and its energy affiliates	Asset name and use	Owned by	Controlled by	Date control transferred	Location		Size
					Balancing authority area	Geo-graphic region (per Appendix D)	
Etc. LP ....	Nowhere Pipeline, used to connect Storage LLC's—Longway Pipeline to ABC falls plant #1.	Etc. LP ...	Etc. LP ...	NA .....	ABC balancing authority area.	Central ...	approximately 14 miles of natural gas pipeline and related equipment with 50 MMcf/d capacity.

\*If the field is not applicable please indicate so by inputting (NA).

### Subpart I—Cross-Subsidization Restrictions on Affiliate Transactions

SOURCE: 73 FR 11025, Feb. 29, 2008, unless otherwise noted.

#### § 35.43 Generally.

(a) For purposes of this subpart:

(1) *Affiliate* of a specified company means:

(i) For any person other than an exempt wholesale generator:

(A) Any person that directly or indirectly owns, controls, or holds with power to vote, 10 percent or more of the outstanding voting securities of the specified company;

(B) Any company 10 percent or more of whose outstanding voting securities are owned, controlled, or held with power to vote, directly or indirectly, by the specified company;

(C) Any person or class of persons that the Commission determines, after appropriate notice and opportunity for hearing, to stand in such relation to the specified company that there is liable to be an absence of arm's-length bargaining in transactions between them as to make it necessary or appropriate in the public interest or for the protection of investors or consumers that the person be treated as an affiliate; and

(D) Any person that is under common control with the specified company.

(E) For purposes of paragraph (a)(1)(i) of this section, owning, controlling or holding with power to vote, less than 10 percent of the outstanding voting securities of a specified company creates a

rebuttable presumption of lack of control.

(ii) For any exempt wholesale generator (as defined under §366.1 of this chapter), consistent with section 214 of the Federal Power Act (16 U.S.C. 824m), which provides that “affiliate” will have the same meaning as provided in section 2(a) of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79b(a)(11)):

(A) Any person that directly or indirectly owns, controls, or holds with power to vote, 5 percent or more of the outstanding voting securities of the specified company;

(B) Any company 5 percent or more of whose outstanding voting securities are owned, controlled, or held with power to vote, directly or indirectly, by the specified company;

(C) Any individual who is an officer or director of the specified company, or of any company which is an affiliate thereof under paragraph (a)(1)(ii)(A) of this section; and

(D) Any person or class of persons that the Commission determines, after appropriate notice and opportunity for hearing, to stand in such relation to the specified company that there is liable to be an absence of arm's-length bargaining in transactions between them as to make it necessary or appropriate in the public interest or for the protection of investors or consumers that the person be treated as an affiliate.

(2) *Captive customers* means any wholesale or retail electric energy customers served by a franchised public utility under cost-based regulation.